



Senate

General Assembly

File No. 169

February Session, 2008

Substitute Senate Bill No. 321

Senate, March 26, 2008

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 51-88 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2008*):

3 (a) [A] Unless a person is providing legal services pursuant to
4 statute or rule of court, a person who has not been admitted as an
5 attorney under the provisions of section 51-80 or has been disqualified
6 from the practice of law due to resignation, suspension, disbarment or
7 being placed on inactive status shall not: (1) Practice law or appear as
8 an attorney-at-law for another, in any court of record in this state, (2)
9 make it a business to practice law, or appear as an attorney-at-law for
10 another in any such court, (3) make it a business to solicit employment
11 for an attorney-at-law, (4) hold himself or herself out to the public as
12 being entitled to practice law, (5) assume to be an attorney-at-law, (6)
13 assume, use or advertise the title of lawyer, attorney and counselor-at-
14 law, attorney-at-law, counselor-at-law, attorney, counselor, attorney
15 and counselor, or an equivalent term, in such manner as to convey the

16 impression that he or she is a legal practitioner of law, or (7) advertise
17 that he or she, either alone or with others, owns, conducts or maintains
18 a law office, or office or place of business of any kind for the practice of
19 law.

20 (b) Any person who violates any provision of this section shall be
21 fined not more than two hundred [and] fifty dollars or imprisoned not
22 more than two months or both. The provisions of this subsection shall
23 not apply to any employee in this state of a stock or nonstock
24 corporation, partnership, limited liability company or other business
25 entity who, within the scope of his employment, renders legal advice
26 to his employer or its corporate affiliate and who is admitted to
27 practice law before the highest court of original jurisdiction in any
28 state, the District of Columbia, the Commonwealth of Puerto Rico or a
29 territory of the United States or in a district court of the United States
30 and is a member in good standing of such bar. For the purposes of this
31 subsection, "employee" means any person engaged in service to an
32 employer in the business of his employer, but does not include an
33 independent contractor.

34 (c) Any person who violates any provision of this section shall be
35 deemed in contempt of court, and the Superior Court shall have
36 jurisdiction in equity upon the petition of any member of the bar of
37 this state in good standing or upon its own motion to restrain such
38 violation.

39 (d) The provisions of this section shall not be construed as
40 prohibiting: (1) A town clerk from preparing or drawing deeds,
41 mortgages, releases, certificates of change of name and trade name
42 certificates which are to be recorded or filed in the town clerk's office
43 in the town in which the town clerk holds office; (2) any person from
44 practicing law or pleading at the bar of any court of this state in his or
45 her own cause; (3) any person from acting as an agent or
46 representative for a party in an international arbitration, as defined in
47 subsection (3) of section 50a-101; or (4) any attorney admitted to
48 practice law in any other state or the District of Columbia from

49 practicing law in relation to an impeachment proceeding pursuant to
50 Article Ninth of the Connecticut Constitution, including an
51 impeachment inquiry or investigation, if the attorney is retained by (A)
52 the General Assembly, the House of Representatives, the Senate, a
53 committee of the House of Representatives or the Senate, or the
54 presiding officer at a Senate trial, or (B) an officer subject to
55 impeachment pursuant to said Article Ninth.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	51-88

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Department (Probation); Correction, Dept.	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes it a crime, punishable by up to two months' imprisonment and/or a fine of up to \$250, to practice law without authorization. It is anticipated that relatively few convictions would occur under the bill, given the frequency with which offenders are currently convicted of the Illegal Practice of Law.¹ Consequently, any revenue gain from criminal fines imposed under the bill and potential cost for incarceration and/or probation supervision would be minimal.

The Out Years

The annualized cost identified above would continue into the future subject to inflation. The annualized, ongoing revenue gain remains constant into the future since fine amounts are set by statute.

¹ On average, there is one conviction each year under current law for violations of CGS 51-88, the Illegal Practice of Law.

OLR Bill Analysis**sSB 321*****AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW.*****SUMMARY:**

The bill makes it a crime for anyone to practice law who is disqualified from doing so because he or she is suspended, disbarred, placed on inactive status, or has resigned. Like people who are not admitted to the Connecticut Bar, the disqualified person is banned from:

1. practicing law or appearing as an attorney for anyone else in any Connecticut court;
2. making it a business to practice law or appear as an attorney for anyone else in any such court;
3. making it a business to solicit employment as an attorney;
4. holding himself or herself out to the public as being entitled to practice law;
5. assuming the role of an attorney;
6. assuming, using, or advertising the title of lawyer, attorney and counselor-at-law, attorney-at-law, counselor-at-law, attorney, counselor, attorney and counselor, or an equivalent term, in a manner that suggests that he or she is a legal practitioner of law; or
7. advertising that he or she, either alone or with others, owns, conducts, or maintains a place of business of any kind for the practice of law.

The bill creates an exception to the ban for people who are legally authorized to provide legal services pursuant to a statute or court rule (see BACKGROUND).

With an exception for employees who provide legal services to their employers, the law subjects violators to imprisonment for up to two months, a fine of up to \$250, or both. They are also deemed in contempt of court.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Rules of Court on Practice of Law

Under the following three circumstances, court rules allow a person to provide legal services in this state without admission to the state bar.

Authorized House Counsel. Attorneys who are licensed to practice outside of this state and employed by an organization located here may register as an authorized house counsel. Once registered the attorney may provide legal services in this state to the organization for which a registration is effective; however, legal services are limited to:

1. giving legal advice to the directors, officers, employees, and agents of the organization with respect to its business and affairs;
2. negotiating and documenting all matters for the organization; and
3. representing the organization in its dealings with any administrative agency, tribunal, or commission having jurisdiction; provided, however, authorized house counsel cannot make appearances as counsel before any state or municipal administrative tribunal, agency, or commission, and cannot make appearances in any court of this state, unless the attorney is specially admitted to appear in the case (Ct. Practice

Book § 2-15A).

Pro Hac Vice. An attorney in good standing in another state, Washington, D.C., or Puerto Rico may upon special and infrequent occasion and for good cause shown be allowed to participate in a trial or appeal. An attorney lawfully admitted to practice in this state must submit an application on behalf of the attorney seeking this limited permission (Ct. Practice Book § 2-16).

Foreign Legal Consultant. Upon recommendation of the bar examining committee, the court may license to practice as a foreign legal consultant, without examination, an applicant who:

1. has been admitted to practice (or has obtained the equivalent of admission) in a foreign country, and has engaged in the practice of law in that country, and has been in good standing as an attorney or counselor at law (or the equivalent of either) in that country, for a period of not less than five of the seven years immediately preceding the date of application;
2. possesses the good moral character and general fitness requisite for a member of the bar of this court; and
3. is at least age 26 (Ct. Practice Book § 2-17).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0 (03/12/2008)